IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6087 of 2007
Date of decision 8 .10 .2007

M/s Vijay Luxmi Poly Fabrics .. Petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr.Avneesh Jhingan, Advocate for the petitioner
Ms. Ritu Bahri, DAG Haryana.

M.M.Kumar, J.

The instant petition filed under Article 226 of the Constitution prays for quashing order dated 19.1.2007 ( Annexure P.4) conveying the decision of High Level Screening committee (for short' the 'HLSC') taken in its 98th meeting held on 7.12.2006 rejecting the appeal filed by the petitioner on the ground that there was delay of two years two months and fourteen days in filing the appeal against the decision of the Lower Level Screening Committee (for brevity 'the LLSC'). The provisions of Rule 28 A of the Haryana General Sales Tax Rules,1975 have been invoked to declare the appeal filed by the petitioner as time barred.

The case of the petitioner as pleaded in the petition is that it was granted exemption for a period commencing from 5.3.1997 to 4.3.2006 for maximum of Rs. 1,22,29,761/-. However, the eligibility certificate was withdrawn on 15.10.2003 by the LLSC in its meeting of the even date. It is claimed that no copy of the order was supplied to the petitioner. On 16.8.2005 an application was filed by the petitioner for supply of the copy of the order. Accordingly copy of the order was supplied to the petitioner on 21.1.2006 and appeal was filed against the order of the

LLSC before the HLSC. The HLSC has dismissed the appeal being time barred vide order dated 19.1.2007 ( Annexure P.4).

The respondents have filed the written statement and have taken the objection that the order of the LLSC was passed on 15.10.2003 and the same was sent to the petitioner vide memo No. 16888 dated 6.11.2003 by registered post (Annexure R/1) which was received back undelivered with the remarks of the postal authorities that the unit was closed since long and the premises was locked. The request of the petitioner was received for supply of the copy on 13.1.2006. Thereafter copy was issued without loss of time.

Having heard the learned counsel at some length we are of the view that right of one appeal is granted by all the statutes in all jurisdiction. It is well settled that to err is human and the appellate jurisdiction has been conferred to rectify such type of mistakes. In that larger prospective, we consider it appropriate to grant one opportunity to the petitioner. Even otherwise, the learned State counsel has not raised any serious objection to the adoption of the afore-mentioned course. Accordingly, we are of the view that the order dated 19.1.2007 ( Annexure P.4) is liable to be set aside. The appeal before the HLSC shall be considered to have been filed within the prescribed period as has been agreed between the parties.

In view of the above, order dated 19.1.2007 ( Annexure P.4) is quashed. The appeal filed by the petitioner before the HLSC shall be considered to have been filed within time. The parties are directed to appear before the HLSC. The date of hearing by the HLSC as agreed between the parties shall be communicated to Shri Avneesh Jhingan, Advocate, House No.275, Sector 21 A, Chandigarh.

Copy of the order be given dasti on payment of usual charges.

**(M.M.Kumar)**
**Judge**

**(Ajay Kumar Mittal)**
**Judge**

**8.10.2007**
**okg**